

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

RITCHIE RODGERS,

Plaintiff,

v.

SOUTHWEST CREDIT SYSTEMS, LP ,

Defendant.

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Civil Action No.

Jury Trial Demanded

COMPLAINT

RITCHIE RODGERS (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against SOUTHWEST CREDIT SYSTEMS, LP (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §1692 *et seq.* and the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. §227 *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. §1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. §1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant regularly conducts business in the State of Texas, and as such, personal jurisdiction is established.

1 conduct the natural consequence of which is to harass, oppress or abuse any person, in
2 connection with the collection of a debt.

3 29. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a
4 telephone to ring or engaging any person in telephone conversation repeatedly or continuously
5 with the intent to annoy, abuse or harass any person at the called number.

6 30. Defendant violated both sections of the FDCPA by placing repeated harassing
7 telephone calls to Plaintiff and continuing to call knowing its calls were unwanted.

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9 **COUNT II**
10 **DEFENDANT VIOLATED §§ 1692e and 1692e(10) OF THE FDCPA**

11 31. Plaintiff incorporates the forgoing paragraphs as though the same were set forth
12 at length herein.

13 32. A debt collector violates § 1692e by using any false, deceptive, or misleading
14 representation or means in connection with the collection of any debt.

15 33. A debt collector violates § 1692e(10) by use of any false representation or
16 deceptive means to collect or attempt to collect any debt or to obtain information concerning a
17 consumer.

18 34. Defendant violated §§ 1692e and 1692e(10) when it placed spoofed calls to
19 Plaintiff's cellular telephone using the name of a contact saved to his cellular telephone.
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22 **COUNT III**
23 **DEFENDANT VIOLATED THE TCPA**

24 35. Plaintiff incorporates the forgoing paragraphs as though the same were set forth
25 at length herein.

1 36. Defendant initiated automated calls to Plaintiff using an automatic telephone
2 dialing system.

3 37. Defendant's calls to Plaintiff were not made for "emergency purposes."

4 38. After Defendant was told to stop calling, Defendant knew or should have known
5 it did not have consent to call and that any consent it may or may not have thought it had was
6 revoked, yet the Defendant continued to place autodialed calls to Plaintiff's cellular telephones.

7 39. Defendant's acts as described above were done with malicious, intentional,
8 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the
9 purpose of harassing Plaintiff.

10 40. The acts and/or omissions of Defendant were done unfairly, unlawfully,
11 intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal
12 defense, legal justification or legal excuse.

13 41. As a result of the above violations of the TCPA, Plaintiff has suffered the losses
14 and damages as set forth above entitling Plaintiff to an award of statutory, actual and treble
15 damages.
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18 WHEREFORE, Plaintiff, RITCHIE RODGERS, respectfully prays for judgment as
19 follows:

20 a. All actual damages suffered by Plaintiff pursuant to 15 U.S.C.

21 §1692 (k)(a)(1);

22 b. Statutory damages of \$1,000.00 for the violation of the FDCPA

23 pursuant to 15 U.S.C. §1692 (k)(a)(2)(A);
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- 1 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
2 expenses incurred by Plaintiff pursuant to 15 U.S.C. §1693 (k)(a)(3);
3 d. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
4 e. Statutory damages of \$500.00 per violative telephone call pursuant to 47
5 U.S.C. § 227(b)(3)(B);
6 f. Treble damages of \$1,500.00 per violative telephone call pursuant to 47
7 U.S.C. §227(b)(3);
8 g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and
9 h. Any other relief deemed appropriate by this Honorable Court.
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13 **DEMAND FOR JURY TRIAL**

14 PLEASE TAKE NOTICE that Plaintiff, RITCHIE RODGERS, demands a jury trial in
15 this case.
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17 Respectfully submitted,
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19 Dated: 12-21-2020

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